

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Jon D. Gruber, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

Ryan R. Gilbertson; Michael L. Reger;
Gabriel G. Claypool; Craig M. McKenzie;
Timothy R. Brady; Terry H. Rust; Paul M.
Cownie; David J. Fellon; Gary L. Alvord;
James L. Thornton; James Randall Reger;
Joseph Clark Reger, Individually and as
Custodian for W. J. R. and J. M. R. (UTMA);
Weldon W. Gilbertson, Individually and as
Custodian for H.G. (UTMA), and as Trustee
of the Ryan Gilbertson 2012 Family
Irrevocable Trust; The Total Depth
Foundation; Jessica C. Gilbertson (a/k/a
Jessica Medlin); Kellie Tasto, as Custodian
for H.G. (UTMA),

Defendants.

Case No. 1:16-cv-09727-WHP

**NOTICE OF MOTION AND MOTION
TO DISMISS THE THIRD AMENDED
CLASS ACTION COMPLAINT BY
DEFENDANT JESSICA C.
GILBERTSON N/K/A JESSICA GILLIN**

NOTICE OF MOTION

PLEASE TAKE NOTICE that a hearing will be held on June 4, 2019 at 11:00 a.m.
before The Honorable William H. Pauley III in Courtroom 20B of the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, New York, NY 10007 on the Motion to Dismiss the
Third Amended Class Action Complaint by Defendant Jessica C. Gilbertson, now known as
Jessica Gillin.

MOTION

Defendant Jessica Gillin moves the Court for an order dismissing Count III of the Third
Amended Class Action Complaint under Federal Rule of Civil Procedure 12(b)(6), with

prejudice because it fails to state a Section 20A claim upon which relief can be granted and fails to plead fraud with particularity. This motion is based on all of the pleadings, files, records, and proceedings in this matter, the memorandum filed in support of the motion, and the arguments of counsel to be made at the hearing.

Respectfully Submitted,

PARKER DANIELS KIBORT LLC

Dated: April 22, 2019

/s/ Lori A. Johnson

Lori A. Johnson (0311443)

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*Attorney for Defendant Jessica Gillin
(pro hac vice motion pending)*